

MANISTEE CITY COUNCIL

WORK SESSION AGENDA

Tuesday, August 9, 2016 - 7:00 p.m. - Council Chambers, City Hall

I. Call to Order.

II. Work Session Items.

- a.) PUBLIC COMMENTS ON WORK SESSION RELATED ITEMS.
- b.) PRESENTATION ON MUNICIPAL EMPLOYEE RETIREMENT SYSTEM (MERS) – Tony Radjenovich and Finance Director Ed Bradford.
- c.) DISCUSSION ON FIREWORKS ORDINANCE – Thad Taylor, City Manager.
- d.) DISCUSSION ON CITY RECYCLING CENTER – Thad Taylor, City Manager.

III. Adjourn.

PROCEEDINGS OF THE MANISTEE CITY COUNCIL – March 1, 2016

MOTION by Zielinski, second by Beaton to authorize the submission of a grant application to the Local Revenue Sharing Board for matching funds for a FEMA grant to purchase Jaws tools and a Lucas Automatic CPR device in the amount of \$5,000.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Beaton, Zielinski, Goodspeed, Smith, Wittlieff

NAYS: None

MOTION by Smith, second by Zielinski to authorize the submission of a grant application to the Local Revenue Sharing Board for swim buoy replacements in the amount of \$2,300. Mikula stated that since the application was completed, the prices had increased by \$50 each. MOTION by Smith, second by Zielinski to amend the motion to change the amount to \$3,050.

With a roll call vote this motion passed unanimously.

AYES: Kenny, Beaton, Zielinski, Goodspeed, Smith, Wittlieff

NAYS: None

CONSIDERATION OF INTRODUCING ORDINANCE 16-01 FIREWORKS.

At their work session of February 9, 2016 City Council discussed the current ordinance and various modifications attempted in the past. A majority of Council requested that the City Attorney prepare a more restrictive ordinance; with more latitude around the Fourth of July.

A draft has been prepared and is attached. If the ordinance is introduced this evening it could be adopted at the next regular meeting. Mayor Kenny outlined the proposed changes to the ordinance.

MOTION by Wittlieff to introduce Ordinance 16-01 amending Chapter 663 Fireworks.

Motion failed for lack of support.

CONSIDERATION OF A FIVE-YEAR CONTRACT FOR BIO-SOLIDS LAND APPLICATION.

A normal by-product of the City's wastewater treatment process includes 750,000 to 1,200,000 gallons of bio-solids annually. The bio-solids are used in agricultural fields as a soil amendment. The City has historically contracted for the removal of bio-solids from the plant for land application, on a five-year basis. Bids were advertised, with two bids being received. The low bid is being recommended. The value of the contract is estimated at \$40,680 in the first year, assuming a volume of 1.2 million gallons. The agreement under consideration was prepared by the City Attorney.

MOTION by Goodspeed, second by Smith to approve a five-year contract with Bio Tech Argonomics of Beulah, Michigan.

With a roll call vote this motion passed unanimously.

Gockerman Wilson Saylor & Hesslin

A Mika Meyers Beckett & Jones, PLC Law Firm



Memorandum

To: City of Manistee Council

From: George V. Saylor, III *QVS*

Date: February 12, 2015

Subject: Fireworks Ordinance

The Michigan Fireworks Safety Act (PA 256 of 2011) restricts a local unit of government from enacting an ordinance regulating the ignition, discharge or use of consumer fireworks the day before, day of and day after a National holiday, except (for city's with a population under 50,000) between the hours of 1:00 am and 8:00 am on those days.

Council decided in 2014 to take advantage of the state law and restrict use of consumer fireworks during the hours of 1:00 am and 8:00 am for the three-day window around a National holiday. It then imposed a time restriction on use of consumer fireworks for any other day of the year, preventing use during the hours of 11:00 pm and 8:00 am. Any other date or time, use of consumer fireworks in the City is permitted.

Council discussed amending the current ordinance at its February 9, 2016 Work Session. Pursuant to the discussion at the Work Session, I prepared an Ordinance to Amend Chapter 663 to prevent the use of Consumer Fireworks any time other than the three day window around a National holiday (with an 11 day window around July 4th), except that from 1:00 am to 8:00 am on those days use of consumer fireworks would not be permitted. A copy of the Ordinance and redlined version of Chapter 663 is attached.

Councilperson Wittlieff asked a question at the Work Session regarding the discharge of consumer fireworks on school property and there was also a question regarding use of consumer fireworks on City property. I reviewed the questions after the meeting and offer the following answer. First, there is a distinction between consumer fireworks and display fireworks. Display fireworks are large firework shows, such as what occurs in connection with the Forest Festival, and are defined by federal law and the American Pyrotechnics Association. Display fireworks require a permit from the municipality.

Consumer fireworks do not require a permit from the City as long as they are discharged within the restrictions of state law and local ordinance. State law provides that consumer fireworks not be ignited, discharged or used on public property, school property, church property or the property of another person without the organization's or person's express permission. Violation of that provision is a state civil infraction. Thus, if consumer fireworks were displayed on school

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property with the express consent of the school, that would be authorized (as a technical matter, the school would not be authorized to give its consent if the discharge is in the City at a time when not authorized by Ordinance). If consumer fireworks were displayed after the Sleighbell Parade on City property, with express consent of the City, that would be permitted (although, again as a technical matter, if not permitted by Ordinance even the City would not be able to give consent). As I believe I indicated before, discharge of consumer fireworks such that they travel to a neighboring property, without that property owner's express consent, is also a violation.

**MANISTEE CITY COUNCIL
WORK SESSION
MINUTES OF FEBRUARY 9, 2016**

The Manistee City Council met in a work session on Tuesday, February 9, 2016 at 7 p.m., Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan 49660.

MEMBERS PRESENT: Colleen Kenny, Lynda Beaton, Roger Zielinski, Robert Goodspeed, James Smith, Mark Wittlieff, Eric Gustad

MEMBERS ABSENT: None

ALSO PRESENT: City Manager, City Attorney, Department Directors, City Engineer, Alliance for Economic Success, Media, Public

Public Comments.

➤ None

Discussion on Downtown Trees. Jeff Reau gave a brief history of the program, based on prior Mayors Exchange with Big Rapids as a start point. Received micro-grant for trees (\$4,000 with grant and DDA contribution). Cost to get trees in planters was cost prohibitive so grant was repurposed for invasive species mitigation. DDA no longer looking at a downtown tree program.

Discussion on Fireworks. City Attorney talked about numerous House and Senate bills regarding fireworks. Discussion among Council on current ordinance and various modifications attempted in the past. Varied opinions offered by Council. Majority of Council would like a more restrictive ordinance (allowed per State law) and more latitude around the Fourth of July.

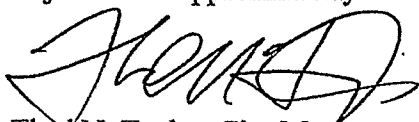
CONSENSUS: Work with City Attorney on a draft ordinance amendment. Present at a future meeting for Council consideration.

Discussion on Strategic Plan Update. Facilitator Tamara Buswinka discussed her impression of the process and received a consensus of Council. Began the process with a discussion and review of the current strategic plan document.

Reviewed the mission / vision / purpose statements – began discussion on current goals to determine if they are still valid, and if not, eliminate and/or revise to some degree.

CONSENSUS: A special Council meeting has been scheduled for Tuesday, February 23, 2016 to continue review and plan updates.

Adjourned at approximately 8:40 p.m.


Thad N. Taylor, City Manager

**Chapter 663
Fireworks**

663.01	Definitions	663.05	Repeal
663.02	Use of Consumer Fireworks Prohibited	663.06	Severability
663.03	Firework Safety	663.99	Penalty
663.04	Enforcement		

Field Code Changed

CROSS REFERENCES
Michigan Fireworks Safety Act – see M.C.L.A. Secs 28.451
Director of Public Safety – See ADM. Ch. 232

663.01 DEFINITIONS

As used in this chapter, the following definitions shall apply:

- A. "Act 256" means the Michigan Fireworks Safety Act, Act 256 of the Public Acts of Michigan of 2011, being MCL 28.451, et seq., as it may be amended from time to time.
- B. "Consumer fireworks" means that term as defined in Act 256.
- C. "Firework" or "fireworks" means that term as defined in Act 256.
- D. "Retailer" means that term as defined in Act 256.
- E. "Wholesaler" means that term as defined in Act 256.
- F. "National holiday" means those holidays described in 5 USC § 6103.

(Ord. 14-03 adopted 6-17-14)

663.02 USE OF CONSUMER FIREWORKS PROHIBITED

~~No person shall ignite, discharge or use consumer fireworks in the City between the hours of 11:00 p.m. and 8:00 a.m. This prohibition shall not preclude a person from igniting, discharging or using consumer fireworks within the City on the day preceding, the day of, or the day after a national holiday, consistent with Act 256, except between the hours of 1:00 a.m. to 8:00 a.m. on those days.~~

No person shall ignite, discharge or use consumer fireworks in the City; except for the following:

- A. The day preceding, day of, and day after a national holiday (except between the hours of 1:00 a.m. and 8:00 a.m. on those days); and
- B. Five days preceding July 4th, July 4th, and five days after July 4th (except between the hours of 1:00 a.m. and 8:00 a.m. on those days).

(Ord. 14-03 adopted 6-17-14)

663.03 FIREWORK SAFETY

No person shall recklessly endanger the life, health, safety, or well-being of any person by the ignition, discharge, or use of consumer fireworks. (Ord. 14-03 adopted 6-17-14)

663.04 ENFORCEMENT

The Director of Public Safety, his designees and sworn law enforcement officers are authorized to enforce the provisions of this Ordinance. (Ord. 14-03 adopted 6-17-14)

663.05 REPEAL

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this Ordinance are repealed. (Ord. 14-03 adopted 6-17-14)

663.06 SEVERABILITY

The sections and provisions of this Chapter 663 are declared to be severable and any portion which is declared inoperative or invalid for any reason by a court of competent jurisdiction shall in no way affect the remaining sections or provisions of this Ordinance. (Ord. 14-03 adopted 6-17-14)

663.99 PENALTY

Whoever violates any provisions of this Chapter 663 is guilty of a municipal civil infraction and shall be fined in an amount not less than that established from time to time by the City Council, or in absence of an amount established by City Council, in the sum of \$500.00 for each and every violation. (Ord. 14-03 adopted 6-17-14)

ORDINANCE 16-____

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED
"CHAPTER 663 – FIREWORKS", OF THE CODIFIED ORDINANCES OF
MANISTEE, MICHIGAN BY MODIFYING THE TIME PERIODS FOR WHICH
THE USE OF CONSUMER FIREWORKS ARE PROHIBITED AND TO REPEAL
ALL ORDINANCES IN CONFLICT THEREWITH

THE CITY OF MANISTEE ORDAINS:

Section 1.

Ordinance 663.02 is deleted in its entirety and in its place the following is added:

663.02 Use of Consumer Fireworks Prohibited.

No person shall ignite, discharge or use consumer fireworks in the City; except for the following:

- A. The day preceding, day of, and day after a national holiday (except between the hours of 1:00 a.m. and 8:00 a.m. on those days); and
- B. Five days preceding July 4th, July 4th, and five days after July 4th (except between the hours of 1:00 a.m. and 8:00 a.m. on those days).

Section 2.

Effective Date; Publication.

This Ordinance shall be effective ten (10) days after its enactment as provided in Section 4-3 of the City of Manistee Charter. The City Clerk shall cause a copy of this Ordinance to be published in a newspaper circulated in the city of Manistee, stating the date of the enactment and effective date of the Ordinance, a brief notice as to the subject matter of the Ordinance and such other facts as the City Clerk shall deem pertinent. A copy of the Ordinance shall be made available for public use and inspection at the office of the Manistee City Clerk.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
MANISTEE, MANISTEE COUNTY, MICHIGAN, THIS ____ DAY OF _____,
2016.

ENACTMENT DATE: _____

CERTIFICATION

I, Michelle Wright, do hereby certify that I am the duly appointed and acting City Clerk of the City of Manistee and that the foregoing ordinance was adopted by the City of Manistee on the ____ day of _____, 2016.

City Clerk